

## **ATTACHMENT A**

### **Remarks**

The interview held with Examiner Harshad Patel on December 30, 2003, is gratefully acknowledged. The courtesy of the Examiner in granting the interview in the absence of Examiner Martir is much appreciated. The interview centered around the rejection on prior art and independent claim 13 was discussed along with the Combs et al and Wissenbach et al patents. The substance of the discussion is incorporated in the remarks which follow.

As set forth in the introductory portions of this application, the present invention is concerned with a recorded device that provides easy, low cost, continuous readout and recording of flow volumes in open channel flow measurement operations upstream of flumes or weirs. The invention has broad application to thousands of water diversions which are currently being made without accurate flow measurement, and permits the water manager, whether a governmental agency, irrigation district, private firm or individual farmer, to manage and conserve water. It will be appreciated that in many instances the person monitoring the control and recording of flow volumes will be of very limited expertise and thus it is important that the control device employed be as simple and trouble free as possible. It is also important that the interior of the device be readily accessible for repairs or other purposes.

A key feature of the present invention concerns the provision of a single housing for housing the sensor, central processing unit and display device and, in particular, the provision of a housing of an especially advantageous construction. In this regard, the housing, as recited in claim 13, comprises a top portion, a bottom portion mechanically connected to the top portion, and a downwardly depending member connected to the bottom portion of the housing, with the sensor being received in the downwardly depending member. This results in a highly compact, effective arrangement wherein the sensor is protected and the interior of the housing is easy to access when necessary.

Turning to the cited references, it is respectfully submitted that, even assuming arguendo that it would be obvious to combine the Combs et al and Wissenbach et al patents, the resultant hybrid combination would not meet the terms of the claims now

presented. The Examiner admits that the Combs et al patent does not disclose at least three features of claim 13 (see the discussion of the references in the first full paragraph on page 2 of the Office Action) but contends that the Wissenbach et al patent discloses these features. In this regard, the Examiner contends that the Wissenbach et al patent discloses "a depending member that receives a sensor such as element 41 as noted in Figure 3." It is respectfully submitted that that contention is not well taken. If the Examiner is simply contending that element 41 is a sensor, this is, of course, correct but it is respectfully submitted that the reference does not disclose a depending member that receives sensor 41. This is evident, for example, from Figure 11 which shows sensor 41 simply hanging down from the main housing. In fact, sensor 41 includes a cable with a sensor head at one end and a plug at the other and the plug is simply plugged into the housing as shown in Figure 11 and other figures. Thus, it is respectfully submitted that there is no teaching of a housing including a downwardly depending member connected to the bottom portion of the housing with the sensor being received in the downwardly depending member as claimed in claim 13. Accordingly, it is respectfully submitted that, for at least this reason, claim 13 patentably defines over the references cited.

A new claim 19 has also been added. This claim sets forth the features of many of the dependent claims and also recites that the top portion includes a window in an upper region thereof through which the display device can be viewed. The latter feature distinguishes over the Wissenbach et al patent wherein, in the first place, there is no upper portion as claimed (there are front and back portions instead) and, further, there is no window mounted in an upper region of an upper portion (the "window" in the reference covers the entire front portion). Further, the limitations added which are based on the dependent claims also further define over the references. For example, there is no teaching in the references of a central processing unit which stores, in memory, values for a coefficient, C, and an exponent, n, both based on the characteristics of the measurement structure used. Responding to the arguments of the Examiner in this regard, the recitation that the claimed values stored, in memory, in the central processing unit is a positive limitation and even assuming for the sake of argument that the central processing unit of one or both of the references is capable of

storing such values does not meet the terms of the claim 19 which require that the central processing unit has stored therein, in memory, such values.

Allowance of the application in its present form is respectfully requested.